

Theresa Rice

From: Roz Lassoff on behalf of Council
Sent: Thursday, June 21, 2012 1:50 PM
To: Theresa Rice
Subject: FW: SMP - Confusion about uses and structures

Roz Lassoff
Rosalind D. Lassoff, City Clerk
City of Bainbridge Island
280 Madison Avenue North
Bainbridge Island, WA 98110
(206) 780-8624

From: Gary Tripp [<mailto:gary@tripp.net>]
Sent: Thursday, June 21, 2012 12:51 PM
To: Council
Subject: SMP - Confusion about uses and structures

SMP - Confusion about Confusion about uses and structures

In the presentations last night and previously, the City has tried to say that SSB 5451 only applies to Single Family Residences and not to appurtenant structures and uses.

I believe that is incorrect.

First let's consider WAC 173 26 221(5)(a) which specifically states: "Like other master program provisions, vegetation conservation standards do not apply retroactively to existing uses and structures...".

SSB 5451 authorizes the City in **Sec. 2. (1)(a)** Residential structures and appurtenant structures and are used for a conforming use..... to be considered a conforming structure.

It is impossible to separate "used for a conforming use" and structures.

Kitsap's Draft SMP, for an example, used SSB 5451 to declares "Lawfully established usesshall be considered conforming" *and never mentions structures.*

Question:

Why is the City telling the City Council that SSB 5451 applies only to Single Family Residences and not to appurtenant structures and uses?

Answer:

The City wants to regulate existing appurtenant structures such as: decks, patios, boathouses, boat racks, stairs, sheds, detached garages, sports courts, swimming pools and gazebos, as **NONCONFORMING structures.**

The City wants to regulate existing uses such as: landscaping, lawns, gardens, views, parking, recreation areas and access to the beach as **NONCONFORMING uses.**

The sole intent of declaring something nonconforming is to remove the use or structure over time. This is not good for the City or the homeowners.

Suggestion:

The City should declare "Lawfully established uses and structures shall be considered conforming"

Other definitions:

SSB 5451 provides the definition in **Sec. 2. (2)** For purposes of this section, "appurtenant structures" means garages, sheds, and other legally established structures. "Appurtenant structures" does not include bulkheads and other shoreline modifications or over-water structures.

WAC 173 27 030 Definitions "Structure" means a permanent or temporary edifice or building, or any piece of work artificially built or composed of parts joined together in some definite manner, whether installed on, above, or below the surface of the ground or water, except for vessels;

Notes:

If the City does not include regulations for Nonconforming structures in its SMP, then the State's **WAC 173 27 080 "Nonconforming use and development standards"** would apply.

There is no WAC defining conforming. Conforming is what uses and structures that comply with the local SMP are called.

Bainbridge Defense Fund
Protecting Private Property Rights

Bainbridge Citizens
Commonsense Environmental Regulations and Accountable Government
PO Box 11560
Bainbridge Is., WA 98110
206-383-2245 Gary Tripp, Director

If you would like to Unsubscribe, just reply with **Unsubscribe** in the subject line.

If you would like to receive shoreline news only, just reply with **Shoreline Only** in the subject line.